

**REMARKS/ARGUMENTS**

Claims 1-7, 9-12 and 14-21 remain pending in the application, as claims 8 and 13 were previously canceled without prejudice. In the Office Action, claims 1, 5, 6, 9, 14, 17 and 19 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,580,704 to Wellig, et al. (Wellig). In addition, claims 2, 3 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wellig in view of Schneier, *Applied Cryptography* (Schneier). Claims 7 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wellig in view of U.S. Patent No. 6,965,674 to Whelan (Whelan). Claims 10 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wellig in view of U.S. Patent No. 5,390,252 to Suzuki (Suzuki). Claims 4 and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wellig in view of Schneier and further in view of the article by L-3 Communications. Claims 11 and 21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wellig in view of Suzuki and further in view of Schneier. Finally, claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Wellig in view of Suzuki in view of Schneier and further in view of U.S. Patent No. 6,212,280 to Howard (Howard).

Independent claim 1 has been amended to clarify that following the switch, the symmetric traffic key established for the first mode of communication is shared between the multi-mode portable communication device and the second multi-mode portable communication device for the second mode of communication. Applicant respectfully submits that Wellig does not teach such a feature. In arguing that Wellig reads on this limitation, the Examiner refers to col. 12, lines 59-63 of that reference (see page 4 of the Office Action of July 18, 2008). That passage, however, merely explains that the mobile terminals may employ an encryption key for maintaining a

secure data transmission when the mobile terminals are in a direct mode of communication. Wellig never mentions anything about re-using an encryption key that was established in any other form of communication prior to the direct mode of communication.

In view of the above, Applicant submits that the above claims are patentable over the prior art. Reconsideration and withdrawal of the rejection of the claims is respectfully requested. Passing of this case is now believed to be in order, and a Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicant's attorney or agent at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection.

The Commissioner is hereby authorized to charge any necessary fee, or credit any overpayment, to Motorola, Inc. Deposit Account No. 50-2117.

Respectfully submitted,

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SEND CORRESPONDENCE TO:

Motorola, Inc.  
1303 East Algonquin Road  
IL01/3<sup>rd</sup> Floor  
Schaumburg, IL 60196

Customer No. 24273

By: /Larry G. Brown/

Larry G. Brown  
Attorney of Record  
Reg. No. 45,834

Tel: 954-723-4295 direct line  
Tel: 954-723-6449 main line

Fax No.: (847) 576-3750  
E-mail: docketing.us@motorola.com